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September 19, 2007

The Honorable Gregory M. Sleet  
United States District Court  
844 King Street  
Wilmington, DE 19801

**Re: Capano v. Carroll, C.A. 06-58\*\*\***

Dear Judge Sleet:

I am writing to Your Honor in your capacity as Chief Judge for the District of Delaware concerning the above case. The above case is a Habeas Corpus proceeding which was originally filed on January 30, 2006. The case was originally assigned to Judge Kent A. Jordan, but has been designated as "to be assigned" to the judge who will fill the vacancy created when Judge Jordan was appointed to the Court of Appeals.

Briefing on the merits of the case was recently completed. On June 7, 2007, I filed a Motion, pursuant to Local Rule 40.1 to have a judge assigned to the case (DI 32). That Motion is not opposed by the State, but has not been acted upon by the Court. A procedure does exist, under 28 U.S.C. §292, to have the Court of Appeals appoint a judge to hear a particular case. I am hesitant, however, to invoke that procedure, without affording the Court a full opportunity to appoint a judge to the case.

Thank you for your attention to this matter.

Respectfully yours,

/s/ Joseph m. Bernstein

Joseph M. Bernstein  
Attorney for Petitioner

cc: Clerk of the Court (by CM/ECF)  
Loren C. Meyers, Esquire (by CM/ECF)  
Elizabeth R. McFarlan, Esquire (by CM/ECF)